

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

**WAUKESHA FLORAL & GREENHOUSES, INC.,
(d/b/a Waukesha Floral and Waukesha Floral & Greenhouse),**

Plaintiff,

v.

Case No. 15-CV-1365

JAMES POSSI and YOUR FLORIST LLC,

Defendants.

ORDER

On March 8, 2016, I issued a preliminary injunction in this case. (Docket # 39.) At that time, the defendants had given me no indication of the estimated costs associated with the preliminary injunction. Accordingly, I set a modest bond of \$1,000.00 and gave the defendants leave to apply for a larger bond (Docket # 40). The defendants have now moved to increase the bond to \$10,000.00. (Docket # 41.) They argue that it will be costly to turn back on the telephone numbers I ordered the defendants to disconnect and that it could/would lead to a loss of business. (*Id.*) The plaintiff responded that I should not increase the bond because the defendants failed to provide any data to support the increase to \$10,000.00. (Docket # 43.)

Although I may decline to require security when a plaintiff demonstrates a strong likelihood of success on the merits, whether to require security and the amount of security is ultimately in my discretion. *Scherr v. Vople*, 466 F.2d 1027, 1035 (7th Cir. 1972). When considering the amount of bond, I must err on the high side because the damages caused by an erroneous preliminary injunction cannot exceed the amount of the bond posted as security and because an error in setting

the bond too high is not serious. *Mead Johnson & Co. v. Abbott Labs.*, 201 F.3d 883, 888 (7th Cir. 2000). However, I may not simply set the bond at whatever high number I think appropriate; instead, reasons must support the number chosen. *Gateway E. Ry. Co. v. Terminal R.R. Ass'n*, 35 F.3d 1134, 1141-42 (7th Cir. 1994).

Although the defendants state that a \$10,000.00 bond is necessary to cover the cost to reconnect the disconnected telephone numbers and that the loss of the telephone numbers “could/would” lead to a loss of business, they provide no evidence in support of this number. Thus, I find the defendants’ letter too speculative and insufficient to support the amount requested. I will, however, give the defendants until **March 14, 2016** to provide further information. The plaintiff may file a response by **March 16, 2016**. If the defendants fail to provide further information by March 14, 2016, the preliminary injunction as stated in Docket # 39 will be entered against the defendants provided that the plaintiff gives security in the amount of \$1,000.00 by **March 18, 2016**. Once again, failure to provide the requisite security will cause the preliminary injunction order to lapse of its own accord.

Dated at Milwaukee, Wisconsin this 9th day of March, 2016.

BY THE COURT

s/Nancy Joseph
NANCY JOSEPH
United States Magistrate Judge